

FUR-BEARING ANIMALS**CHAPTER 748**

H. B. No. 1831

An Act relating to the taking, possession, propagation, transportation, purchase, and sale of fur-bearing animals; providing penalties.

Be it enacted by the Legislature of the State of Texas:

Section 1. Chapter 71, Parks and Wildlife Code, as amended, is amended ⁴⁶ to read as follows:

CHAPTER 71. LICENSES AND REGULATIONS**Sec. 71.001. Definitions**

In this subtitle:

(1) "Fur-bearing animal" means wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, weasel, nutria, or civet cat.

(2) "Trapper" means a person who takes a fur-bearing animal or the pelt of a fur-bearing animal.

(3) "Retail fur buyer" means a person who purchases a fur-bearing animal or the pelt of a fur-bearing animal of this state from trappers only.

(4) "Wholesale fur dealer" means a person who purchases for himself or for another person a fur-bearing animal or the pelt of a fur-bearing animal of this state from a trapper, a retail fur buyer, a fur-bearing animal propagator, or another wholesale fur dealer.

(5) "Resident" means a person who has resided in this state for more than six months immediately before an application for a license issued under this chapter is made.

(6) "Nonresident" means any person applying for a trapper's license other than a resident.

(7) "Sale" includes barter and other transfers of ownership for consideration.

(8) "Take" means the act of snaring, trapping, shooting, killing, or capturing by any means and includes an attempt to take.

(9) "Carcass" means the body of a dead fur-bearing animal, with or without the hide attached.

(10) "Depredation" means the loss of or damage to agricultural crops, livestock, poultry, or personal property.

(11) "Pelt" means the untanned, green or dried hide or skin of a fur-bearing animal, whether or not the hide or skin is attached to the carcass.

(12) "Place of business" means a place where fur-bearing animals or their pelts are sold, received, transported, possessed, or purchased, and includes a vehicle used by a trapper, retail fur buyer, wholesale fur dealer, or fur-bearing animal propagator.

(13) "Fur-bearing animal propagator" means a person who takes or possesses a living fur-bearing animal and holds it for the purpose of propagation or sale.

⁴⁶. V.T.C.A. Parks & Wildlife Code, §§
71.001 to 71.016.

Sec. 71.0011. Application

This chapter applies to fur-bearing animals in each county except those populations on the state's list of endangered fish and wildlife.

Sec. 71.002. Proclamations

(a) The commission by proclamation may regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals, pelts, and carcasses as the commission considers necessary to manage fur-bearing animals or to protect human health or property.

(b) A proclamation of the commission under this chapter may also provide for:

- (1) permit application forms, fees, procedures, and reports;
- (2) hearing procedures;
- (3) the periods of time when it is lawful to take, possess, sell, purchase, or transport fur-bearing animals, pelts, and carcasses;
- (4) catch and possession limits for fur-bearing animals and pelts; and
- (5) the means, methods, and manner that are, and places in which it is, lawful to take or possess fur-bearing animals, pelts, or carcasses.

Sec. 71.003. Scientific Studies and Investigations

The department shall conduct scientific studies and investigations of fur-bearing animals as necessary to develop information on populations, distribution, habitat needs, and limiting factors, to acquire any other biological or ecological data, and to determine appropriate management policies for public safety.

Sec. 71.004. Prohibited Acts

(a) No person may take, sell, purchase, or possess a fur-bearing animal, pelt, or carcass in this state, except as provided by proclamation of the commission. This chapter does not prohibit a landowner or his agent from taking a fur-bearing animal causing depredation on that person's land. No person may possess a fur-bearing animal taken for depredation purposes except as authorized by proclamation of the commission.

(b) No person may take a fur-bearing animal on any privately owned land or body of water unless the owner of the land or water, or the owner's agent, consents.

Sec. 71.005. Licenses Required

(a) No person may take a fur-bearing animal or a pelt in this state unless he has acquired and possesses a trapping license.

(b) No person may purchase or possess after purchase a pelt or carcass taken in this state unless he has acquired and possesses a retail fur buyer's or wholesale fur dealer's license.

(c) No person may take or possess a live fur-bearing animal for the purpose of propagation or sale unless he has acquired and possesses a fur-bearing animal propagation license.

Sec. 71.006. Purchases by Retail Fur Buyer

No retail fur buyer may purchase in this state a pelt or carcass except from a licensed trapper.

Sec. 71.007. Purchases by Wholesale Fur Dealer

No wholesale fur dealer may purchase in this state a pelt or carcass except from a licensed trapper, a licensed retail fur buyer, a fur-bearing animal propagator, or another licensed wholesale fur dealer.

Sec. 71.008. Issuance of Licenses

The licenses authorized by this chapter shall be of a form prescribed and issued by the department, or an authorized agent of the department, to applicants on the payment of the license fees.

Sec. 71.009. License Fees

The fee for a license is set by the commission in an amount necessary to provide revenue to cover the costs of implementing the provisions of this chapter, but the amount may not be less than:

- (1) \$10.75 for a resident trapper's license;
- (2) \$200.75 for a nonresident trapper's license;
- (3) \$50.75 for a resident retail fur buyer's license;
- (4) \$200.75 for a nonresident retail fur buyer's license;
- (5) \$100.75 for a resident wholesale fur dealer's license;
- (6) \$400.75 for a nonresident wholesale fur dealer's license; and
- (7) \$50.75 for a fur-bearing animal propagation permit.

Sec. 71.010. License Period

The license period for licenses issued under this chapter is September 1 of one year through August 31 of the following year, and a license is current and valid only for the license period for which it is issued.

Sec. 71.011. Possession and Display of Licenses

(a) A trapper shall carry the trapper's license on his person while taking or possessing a fur-bearing animal, pelt, or carcass.

(b) A wholesale fur dealer, a retail fur buyer, or a fur-bearing animal propagator shall display the required license at his place of business or while conducting business at a place other than his place of business.

(c) The failure to display a valid license on request by the department or an authorized agent of the department while taking, possessing, selling, offering for sale, or buying a fur-bearing animal, pelt, or carcass is a violation of this chapter. If on or before the trial of a person charged with a violation of this section, the person produces for the court or the prosecuting attorney the proper license that was issued to the person and valid at the time of the offense, the court shall dismiss that charge.

Sec. 71.012. Inspections

The place of business of any fur-bearing animal propagator, wholesale fur dealer, or retail fur buyer and any vehicle being used by a fur-bearing animal propagator, wholesale fur dealer, or retail fur buyer for the collection or transportation of fur-bearing animals, carcasses, or pelts are subject to inspection without a warrant by a game warden or any other peace officer at any time.

Sec. 71.013. Fees of Issuing Agents

County clerks and other authorized agents of the department other than employees of the department may retain 75 cents of the fee for the issuance of a trapper's license, a retail fur buyer's license, or a wholesale fur dealer's license as a collection fee.

Sec. 71.014. Reports

The holder of a wholesale fur dealer's, retail fur buyer's, or fur-bearing animal propagation license shall submit reports to the department as required by proclamation of the commission.

Sec. 71.015. Penalties

(a) Except as provided in another subsection of this section, a person who violates any provision of this chapter or proclamation under this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(b) If it is shown at the trial of the defendant that he has been convicted once within the preceding 36 months of a violation of this chapter or a proclamation under this chapter, he shall be punished by a fine of not less than \$200 nor more than \$500, by confinement in jail for not less than 30 nor more than 90 days, or by both.

(c) If it is shown at the trial of the defendant that he has been convicted two or more times within the preceding 60 months of a violation of this chapter or a proclamation under this chapter, he shall be punished by a fine of not less than \$500 nor more than \$2,000, by confinement in jail for not less than six months nor more than one year, or by both.

(d) The use of a conviction for enhancement purposes does not preclude the subsequent use of that conviction for enhancement purposes.

(e) Each fur-bearing animal or pelt of a fur-bearing animal taken or possessed in violation of this chapter constitutes a separate offense.

Sec. 71.016. Revocation of License

(a) If a person is convicted under Section 71.015 of this chapter, the court may revoke a license issued to that person under this chapter. The decision to revoke shall be entered in the judgment.

(b) If a person's license has been revoked under Subsection (a) of this section, that person may not obtain a license issued under this chapter for a period of one year from the date of revocation.

(c) A person who obtains a license issued under this chapter within one year after the date of revocation of a license issued under this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$500 nor more than \$1,000.

Sec. 2. Section 61.005(2), Parks and Wildlife Code, is amended ⁴⁷ to read as follows:

(2) "Wildlife resources" means all game animals, game birds, alligators, marine animals, fish, and other aquatic life.

Sec. 3. Sections 61.021 and 61.022, Parks and Wildlife Code, are amended ⁴⁸ to read as follows:

Sec. 61.021. Taking Wildlife Resources Prohibited

Except as permitted under a proclamation issued by the commission under this chapter, no person may hunt or possess a game bird or game animal, or catch a fish, marine animal, or other aquatic life at any time or in any place covered by this chapter.

Sec. 61.022. Taking Wildlife Resources Without Consent of Landowner Prohibited

No person may hunt or possess a game animal or game bird, or catch a fish, marine animal, or other aquatic life at any time and at any place covered by this chapter unless the owner of the land or water, or the owner's agent, consents.

Sec. 4. Section 61.901(a), Parks and Wildlife Code, as amended, is amended ⁴⁹ to read as follows:

(a) Except as provided in this section, a person who violates any provision of this chapter or any proclamation or regulation of the commission issued under the authority of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each game animal, game bird, or fish taken in violation of

47. V.T.C.A. Parks & Wildlife Code, § 61.-005(2).

49. V.T.C.A. Parks & Wildlife Code, § 61.-901(a).

48. V.T.C.A. Parks & Wildlife Code, §§ 61.-021, 61.022.

this chapter or of a proclamation or regulation of the commission constitutes a separate offense.

Sec. 5. Section 63.103(a), Parks and Wildlife Code, as amended, is amended⁵⁰ to read as follows:

(a) No person may sell or possess for the purpose of sale in this state a living armadillo.

Sec. 6. Section 230.042(3), Parks and Wildlife Code, is amended⁵¹ to read as follows:

(3) "Wildlife resources" means all game birds, game animals, colored peccary (javelina), and all freshwater fish.

Sec. 7. Section 296.001, Parks and Wildlife Code, as amended, is amended⁵² to read as follows:

Sec. 296.001. Regulatory Act: Applicability

Except as provided by this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to deer and all aquatic life except shrimp and oysters in Refugio County.

Sec. 8.⁵³ The following sections of the Parks and Wildlife Code, as amended, are not affected by this Act: Sections 81.404, 229.021, 334.041, and 350.021.

Sec. 9. (a) The following provisions of the Parks and Wildlife Code, as amended, are repealed⁵⁴ on the effective date of a proclamation of the commission that regulates the conduct proscribed by that provision:

Section 63.101

Subchapter E of Chapter 160

Subchapter D of Chapter 192

Subchapter D of Chapter 212

Subchapter D of Chapter 246

Subchapter D of Chapter 290

Subchapter E of Chapter 304

Subchapter C of Chapter 329

Subchapter B of Chapter 336

(b) Chapter 72, Parks and Wildlife Code, as amended, is repealed.⁵⁵

Sec. 10.⁵⁶ (a) A person who violates a provision of Chapter 71 or Chapter 72, Parks and Wildlife Code, as amended, before the effective date of this Act shall be prosecuted under the law as it existed on the day the violation occurred and that law is continued in effect for that purpose.

(b) The fact that a person was convicted of a violation of a provision of Chapter 71 or 72, Parks and Wildlife Code, as amended, before the effective date of this Act does not preclude the use of that conviction for enhancing the punishment for an offense that was committed after the effective date of this Act.

Sec. 11. This Act takes effect September 1, 1981.

Sec. 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an impera-

50. V.T.C.A. Parks & Wildlife Code, § 63.-103(a).

51. V.T.C.A. Parks & Wildlife Code, § 230.-042(3).

52. V.T.C.A. Parks & Wildlife Code, § 296.-001.

53. V.T.C.A. Parks & Wildlife Code, §§ 71.001 note, 81.404 note, 229.021 note, 334.-041 note, 350.021 note.

54. V.T.C.A. Parks & Wildlife Code, §§ 63.101, 160.041, 192.031, 212.031, 246.031, 290.031, 304.041, 329.021, 329.022, 336.011, repealed.

55. V.T.C.A. Parks & Wildlife Code, §§ 72.001 to 72.007, repealed.

56. V.T.C.A. Parks & Wildlife Code, §§ 71.001 note, 72.001 note.

tive public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this rule is hereby suspended.

Passed by the House on May 15, 1981: Yeas 143, Nays 3, 2 present, not voting; passed by the Senate on May 31, 1981: Yeas 30, Nays 0.

Approved June 16, 1981.

Effective Sept. 1, 1981.

**SMOKE DETECTORS—RESIDENTIAL DWELLING UNITS—
RENTED OR LEASED PREMISES**

CHAPTER 749 ⁵⁷

H. B. No. 2046

An Act relating to smoke detectors in residential dwelling units which are rented or leased.

Be it enacted by the Legislature of the State of Texas:

Definitions

Section 1. In this Act:

(1) "Bedroom" means any room which is designed with the intent that it be used for sleeping purposes.

(2) "Corridor" means a passage which connects parts of the dwelling unit.

(3) "Dwelling unit" means a home, mobile home, duplex unit, apartment unit, condominium unit, or any dwelling unit in a multiunit residential structure. It also means one or more rooms which are subject to a single rental agreement and which are rented to a tenant or tenants for use by persons as a permanent residence.

(4) "Landlord" means the owner, lessor, or sublessor of a dwelling unit. A managing agent or leasing agent, whether residing or officing on-site or off-site, shall be considered the agent of the landlord for purposes of notice and other communications required or allowed under this Act. Otherwise, a manager or agent of the landlord shall be considered a landlord under this Act only if the manager or agent purports to be the owner, lessor, or sublessor in the rental agreement.

(5) "Smoke detector" means a device which is (1) designed to detect visible or invisible products of combustion, (2) designed with an alarm audible to the bedrooms it serves, (3) powered by either battery, alternating current, or other power source, (4) tested and listed for use as a smoke detector by Underwriters Laboratories, Inc., Factory Mutual Research Corporation, or United States Testing Company, Inc., and (5) in good working order.

(6) "Tenant" means any person who is entitled to occupy a dwelling unit to the exclusion of others and who is obligated to pay rent for the dwelling unit under a written or oral rental agreement.

⁵⁷. Vernon's Ann.Civ.St. art. 5286j, §§ 1 to 17.